

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

EXPORT DEVELOPMENT CANADA,)	
)	Civil Action No.: 3:13-cv-00103 (GCM)
Plaintiff,)	
v.)	ORDER ON PLAINTIFF’S MOTION
)	FOR A PRELIMINARY INJUNCTION
WILLIAM COLLINS, NC EYEWEAR,)	
INC., FRAME DEJOUR II, INC.,)	
OZARK ENTERPRISES, INC.,)	
MICHAEL BOWMAN, M. BOWMAN,)	
LLC, and L & J BOYD ENTERPRISES,)	
LLC,)	
)	
Defendants.)	
)	

WHEREAS, plaintiff Export Development Canada (“Plaintiff”) having moved this Court for a preliminary injunction pursuant to Fed. R. Civ. P. 65 and *N.C. Gen. Stat.* § 39-23.7(a)(3) ordering defendants Ozark Enterprises, Inc. and William Collins (the “Responding Defendants”), jointly and severally, to deposit the sum of \$551,650.59 into the open account of defendant NC Eyewear, Inc. at First Citizens Bank & Trust Company (Account No. ending in 3224), with such funds to become subject to Plaintiff’s Writ of Attachment dated February 22, 2013, and to remain in said account pending the determination of this action and the satisfaction of any judgment ultimately rendered in Plaintiff’s favor (the “Motion”);¹

WHEREAS, the Court having held a hearing to determine Plaintiff’s entitlement to the issuance of a preliminary injunction, which took place on June 20, 2013, and at which Plaintiff, the Responding Defendants, and defendant L & J Boyd Enterprises, LLC, appeared through counsel (the “Hearing”);

¹ Docket No. 35 (*Ex Parte*).

WHEREAS, the Court having considered Plaintiff's moving Memorandum of Law² in support of the Motion and the supporting Affidavit of David Mannion and Exhibits thereto;³ the Responding Defendants' Memorandum of Law in opposition to the Motion;⁴ and Plaintiff's reply Memorandum of Law⁵ and the supporting Affidavit of Michael Suliteanu;⁶ and the arguments of counsel for Plaintiff and the Responding Defendants at the Hearing (the "Motion Record"); and, based on the Motion Record, and for the reasons stated at the Hearing, it appears to the satisfaction of the Court that: (1) there is a sufficient likelihood that Plaintiff will succeed on the merits of its claims against the Responding Defendants pursuant to the North Carolina Uniform Fraudulent Transfer Act (*N.C. Gen. Stat. § 39-23.1, et seq.*); (2) Plaintiff will be irreparably harmed unless an injunction is issued; (3) the equities weigh in favor of granting an injunction; and (4) the issuance of an injunction is in the public interest;

IT IS THEREFORE ORDERED that, pursuant to Fed. R. Civ. P. 65 and *N.C. Gen. Stat. § 39-23.7(a)(3)*, the Responding Defendants shall, jointly and severally, deposit the sum of \$551,650.59 into the open account of defendant NC Eyewear, Inc. at First Citizens Bank & Trust Company (Account No. ending in 3224), within ten (10) business days of the date hereof, with such funds to become subject to Plaintiff's Writ of Attachment dated February 22, 2013, and to remain in said account pending the determination of this action and the satisfaction of any judgment ultimately rendered in Plaintiff's favor;

² Docket No. 35-12 (*Ex Parte*).

³ Docket No. 35-1 (*Ex Parte*).

⁴ Docket No. 44.

⁵ Docket No. 50.

⁶ Docket No. 50-1.

IT IS FURTHER ORDERED that, upon the Responding Defendants compliance with this order, the *lis pendens* filed by Plaintiff (the “*Lis Pendens*”) and the Writ of Attachment recorded against the real property of William Collins located at 14905 Alexander Place Dr., Huntersville, NC 28078-3215 (the “Real Property Writ”), shall be vacated and Plaintiff shall cooperate with the Responding Defendants’ counsel to the extent reasonably necessary to execute any documents required to effect the vacatur of the *Lis Pendens* and Real Property Writ;

IT IS FURTHER ORDERED that, upon the entry of this order, the preliminary injunction previously issued by this Court (Docket No. 25) shall be deemed vacated and dissolved;

IT IS FURTHER ORDERED that, pursuant to Fed. R. Civ. P. 65(c), Plaintiff shall provide \$2,500.00 as security for the issuance of this injunction, which sum shall include the sums previously posted by Plaintiff as security for the issuance of the preliminary injunction being dissolved hereunder (Docket No. 25) and the temporary restraining order issued in connection with this Motion (Docket No. 36).

IT IS SO ORDERED.

Signed: June 21, 2013

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

